

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

GRANT CLEVERLEY, in his individual  
 capacity and on behalf of nominal plaintiff  
 ALLSITE STRUCTURE RENTALS, LLC,  
 also a defendant herein,

Plaintiff,

vs.

CHARLES BALLANTYNE, an individual;  
 ALLSITE STRUCTURE RENTALS, LLC,

Defendants.

Case No. 2:12-cv-00444-GMN-GWF

**ORDER**

Motion for Leave to File Amended  
 Complaint (#142)

This matter comes before the Court on Plaintiff's renewed and revised Motion for Leave to File Second Amended Complaint (#142), filed on September 26, 2013. Defendants filed a conditional Notice of Non-Opposition (#143) on October 9, 2013.

On August 29, 2013, the Court granted in part and denied in part Defendants' Motion to Dismiss (#78) the Amended Complaint (#69). *See Order, Doc. #137*. After the Motion to Dismiss was filed but before the Court entered its Order (#137), Plaintiff filed his first Motion for Leave to File Second Amended Complaint (#131). The Court denied leave to amend citing, among other things, the excessive detail of the proposed amended complaint and its assertion of claims now dismissed. *See id.* at 22:8-23:10. The Court did, however, permit Plaintiff to "move for leave to file a Second Amended Complaint that complies" with the Court's Order (#137), "and which includes a claim for defamation as discussed" in the Order (#137). *See id.* at 24:6-9.

Plaintiff now moves for leave to file a revised Second Amended Complaint, which he purports to be compliant with the Court's previous Order (#137). Defendants do not oppose the

1 Motion for Leave (#142), subject to two conditions: Defendants do not concede (1) that the  
2 proposed amended complaint complies with the Court's Order (#137), or (2) that the proposed  
3 amended complaint states a claim upon which relief can be granted. Defendants' non-opposition is  
4 further predicated upon the reservation of the right to move to strike or dismiss portions of the  
5 proposed complaint. The Court will grant the Motion (#142), subject to Defendants' conditions.  
6 Accordingly,

7 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Leave to File Second Amended  
8 Complaint (#142) is **granted** as follows:

- 9 (1) Plaintiff shall file the proposed Second Amended Complaint as contained in Docket  
10 #142, Exhibit #2, within five days of the date of this Order;
- 11 (2) This Order does not indicate that the proposed Second Amended Complaint is  
12 compliant with this Court's August 29, 2013 Order (Doc. #137);
- 13 (3) Subject to the time constraints imposed by the Federal Rules, Defendants shall be  
14 permitted to file a motion to strike portions of the Second Amended Complaint, or  
15 to file a motion to dismiss the Second Amended Complaint under any applicable  
16 statute or rule, including but not limited to Federal Rules of Civil Procedure 8, 9(b),  
17 12(b)(6), 12(e), and 12(f).

18 DATED this 21st day of October, 2013.

19 

20 \_\_\_\_\_  
21 GEORGE FOLEY, JR.  
22 United States Magistrate Judge  
23  
24  
25  
26  
27  
28